

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

JOHN TROTTER,)	
)	
Petitioner,)	
)	
v.)	C.A. No. 05-40001-MLW
)	
DAVID WINN,)	
)	
Respondant.)	
)	

PROCEDURAL ORDER

WOLF, District Judge

On December 27, 2004, petitioner John Trotter, a prisoner confined at FMC Devens, filed a petition for a writ of habeas corpus under 28 U.S.C. § 2241. On January 12, 2005, he filed an application to proceed without prepayment of the \$5.00 fee for filing a petition for habeas relief. The Court will address the filing fee in a separate order.

ACCORDINGLY,

(1) The Clerk shall correct the case caption to reflect that the only respondent to this action is David Winn. A writ of habeas corpus must be "directed to the person having custody of the person detained." 28 U.S.C. § 2243. Petitioner's legal custodian is the warden of FMC Devens, the individual having day-to-day control over the facility in which petitioner is being detained. Rumsfeld v. Padilla, --U.S.--, 124 S. Ct. 2711, 2720 (2004); Vasquez v. Reno, 233 F.3d 688, 694 (1st Cir. 2000), cert. denied, sub nom. Vasquez v. Ashcroft, 122 S. Ct. 43 (2001);

(2) The Clerk of this Court shall serve a copy of the

Petition, by certified mail, upon (i) David Winn, Warden, FMC Devens, P.O. Box 879, Ayer, Massachusetts 01432; AND (ii) the United States Attorney; and

(3) The Respondent shall, within 28 days of receipt of this Order, file an answer or other responsive pleading.

SO ORDERED.

August 6, 2005
Date

/s/ Mark L. Wolf
United States District Judge